

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**
No. 13-598V
Filed: June 3, 2015

ERIC P. CABRERA and *
CAROL CABRERA, natural parents *
and guardians of L.C., *
a minor, * Interim Fees & Costs
*
Petitioners, *
*
*
SECRETARY OF HEALTH *
AND HUMAN SERVICES, *
*
*
Respondent. *

Thomas P. Gallagher, Esq., Somers Point, NJ for petitioners.
Darryl Wishard, Esq., U.S. Dep't of Justice, Washington, DC for respondent.

DECISION on INTERIM ATTORNEY FEES and COSTS¹

Gowen, Special Master:

In this case under the National Vaccine Injury Compensation Program [hereinafter “the Program”],² petitioners provided respondent with a draft motion for an award of interim attorney fees and costs on May 11, 2015 [the “Application”]. See *Avera v. Sec'y, HHS*, 515 F.3d 1343, 1352 (Fed. Cir. 2008). On June 1, 2015, the parties filed a Stipulation of Fact Concerning Interim Attorneys’ Fees and Costs [“Stipulation”], wherein they explain that based on discussion of respondent’s objections, petitioners amend their Application to request an award of \$25,000.00. Further, petitioners’ counsel represented pursuant to General Order #9 that petitioners are not seeking interim out-of-pocket expenses at this time. Stipulation at p.5.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² The applicable statutory provisions defining the Program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006).

Respondent does not object to the amended amount, noting that respondent has elected not to raise her objections under *Avera* and Section 15(e)(1) based on the particular circumstances presented here. Stipulation at p.4.

I find that petitioners are entitled to an award of interim attorney fees and costs under the facts and circumstances of this case and that the agreed upon amount is reasonable. **Accordingly, I hereby award the total of \$25,000.00 issued in the form of a check payable jointly to petitioners, Eric P. Cabrera and Carol Cabrera and petitioners' attorney, Thomas P. Gallagher, Esq., for interim attorney fees and costs.**

The clerk of court shall enter judgment accordingly.³

IT IS SO ORDERED.

s/Thomas L. Gowen
Thomas L. Gowen
Special Master

³ Entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review. See Vaccine Rule 11(a).